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**MAILED**

**DEC 13 2010**

**OFFICE OF PETITIONS**

MINTZ, LEVIN, COHN, FERRIS,  
GLOVSKY AND POPEO, P.C  
ONE FINANCIAL CENTER  
BOSTON MA 02111

In re Application of	:	
Sackstein	:	ON APPLICATION FOR
Application No. 10/042,421	:	PATENT TERM ADJUSTMENT
Filed: October 18, 2001	:	
For: HEMATOPOIETIC CELL E-	:	
SELECTIN / L-SELECTIN LIGAND	:	
GLYCOSYLATED CD44 POLYPEPTIDE	:	

This is in response to the "APPLICATION FOR ADJUSTMENT OF PATENT TERM UNDER 37 C.F.R. §1.705(b)", filed November 5, 2010. Applicant requests that the determination of patent term adjustment be corrected. Applicant disputes the 108 day reduction and the 61 day adjustment.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

The application for patent term adjustment is **GRANTED** to the extent indicated.

Applicant disputes the 108 day reduction for the submission of the information disclosure (IDS) on June 8, 2009. Applicant contends the IDS was submitted with the request for continued examination (RCE). Thus a reduction is not required.

A review shows that the 108 day reduction for the submission of the information disclosure statements on June 8, 2009 was not warranted. 37 CFR §1.704(c)(8) provides that a period of reduction is entered for:

Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the

following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

- (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

In this instance, the IDS submitted on June 8, 2009 was submitted with the RCE also submitted on June 8, 2009. Thus, the submission of the IDS does not constitute a failure to engage in reasonable efforts to conclude prosecution. Accordingly, the 108 day reduction will be removed.

However, further review of the record shows that a reduction of 59 days is warranted for the submission of the supplemental reply in the form of a declaration pursuant to 37 CFR 1.132 filed on August 6, 2009, after the submission of the RCE on June 8, 2009. The 59 days is calculated beginning on June 9, 2009 the day after the date the initial reply was filed and ends on August 6, 2009, the date the supplemental reply was submitted. Accordingly, the 59 day reduction is required.

In addition, review of the record confirms that the 61 day adjustment is not required. The adjustment of 61 days is being removed as a compliant appeal brief was not filed. The appeal brief filed on February 20, 2009 was deemed to be non-compliant. The period of adjustment is equal to the number of days, if any, in the period beginning on the day after the date that is four months after the date an appeal brief in compliance with § 41.37 of this title was filed and ending on the date of mailing of any of an examiner's answer under § 41.39 of this title, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first. Thus, the mailing of the non-final Office action on August 20, 2009 does not warrant an adjustment.

Applicant's delay prior to the mailing of the Notice of Allowance is 681 (96 + 92 + 95 + 90 + 34 + 32 + 59 + 183) days.

Office delay prior to the mailing of the Notice of Allowance is 405 (336 + 69) days.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is zero (0) days.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.



Anthony Knight  
Director  
Office of Petitions

Enclosure: Copy of REVISED PALM Screen



# Patent Term Adjustments



PTA/PTA Information    Patent Term Adjustment    Patent Term Extension

Application Number\*: 10042421    Search    Explanation of PTA Calculation    Explanation of PTE Calculation

## PTA Calculations for Application: 10042421

Application Filing Date: 10/18/2001	Overlapping Days Between (A and B) or (A and C): 0
Issue Date of Patent:	Non-Overlapping USPTO Delays: 466
A Delays: 466	PTO Manual Adjustment: 110
B Delays: 0	Applicant Delay (APPL): 730
C Delays: 0	Total PTA (days): 0

\* - Sorted Column

## File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
146	12/13/2010		P028	Adjustment of PTA Calculation by PTO	61	0	0
145	12/13/2010		P028	Adjustment of PTA Calculation by PTO		59	0
144	12/13/2010		P028	Adjustment of PTA Calculation by PTO	108	0	0
127	08/05/2010	05/28/2010	MM/-	Mail Notice of Allowance	69	0	111
126	08/03/2010		IREV	Issue Revision Completed		0	0
125	08/03/2010		DVER	Document Verification		0	0
124	08/03/2010		N/E	Notice of Allowance Data Verification Completed		0	0
123	08/03/2010		EXA	Examiner's Amendment Communication		0	0
122	08/02/2010		CNTA	Notice of Allowability		0	0
115	07/31/2010		FWDX	Date Forwarded to Examiner		0	111
114	07/30/2010	01/28/2010	SA..	Supplemental Response		183	0
113	01/30/2010		FWDX	Date Forwarded to Examiner		0	0
110	01/30/2010		ABN9	Disposal for a RCE / CPA / R129		0	0
112	01/28/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE		0	0
109	01/28/2010		BRCE	Workflow - Request for RCE - Begin		0	0
108	01/26/2010		MEXIN	Mail Examiner Interview Summary (PTOL - 413)		0	0
107	01/19/2010		XT/G	Request for Extension of Time - Granted		0	0
106	12/01/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)		0	0
105	10/20/2009		NAPCP	Mail Appeals conf. Proceed to BPAI		0	0
104	10/20/2009		APCP	Pre-Appeals Conference Decision - Proceed to BPAI		0	0
103	08/26/2009		C602	Oath or Declaration Filed (Including Supplemental)		0	0
102	08/26/2009		AP.C	Request for Pre-Appeal Conference Filed		0	0
101	08/26/2009		N/AP	Notice of Appeal Filed		0	0
100	08/20/2009	06/20/2009	MCTNF	Mail Non-Final Rejection	61	0	86
99	08/17/2009		CTNF	Non-Final Rejection		0	0
96	06/10/2009		FWDX	Date Forwarded to Examiner		0	0
94	06/10/2009		FWDX	Date Forwarded to Examiner		0	0
92	06/10/2009		ABN9	Disposal for a RCE / CPA / R129		0	0
90	06/08/2009		IDSC	Information Disclosure Statement considered		0	0
97	06/08/2009	02/20/2009	EIDS	Electronic Information Disclosure Statement		108	86
95	06/08/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE		0	0
91	06/08/2009		WIDS	Information Disclosure Statement (IDS) Filed		0	0
90	06/08/2009		BRCE	Workflow - Request for RCE - Begin		0	0
89	05/28/2009		APBD	Notice -- Defective Appeal Brief		0	0
88	03/12/2009		APBR	Appeal Brief Review Complete		0	0
87	03/12/2009		FWDX	Date Forwarded to Examiner		0	0
86.1	02/20/2009		APB1	Defective / Incomplete Appeal Brief Filed		0	0
86	02/20/2009		AP.B	Appeal Brief Filed		0	0
85	02/20/2009		XT/G	Request for Extension of Time - Granted		0	0
84	01/09/2009		MCTAV	Mail Advisory Action (PTOL - 303)		0	0
83	01/08/2009		CTAV	Advisory Action (PTOL-303)		0	0
82	12/30/2008		FWDX	Date Forwarded to Examiner		0	0
81	11/24/2008		AP/A	Amendment/Argument after Notice of Appeal		0	0
80	09/23/2008	08/31/2008	N/AP	Notice of Appeal Filed		32	78
79	09/23/2008		XT/G	Request for Extension of Time - Granted		0	0
78	05/21/2008		MCTFR	Mail Final Rejection (PTOL - 326)		0	0
77	05/20/2008		CTFR	Final Rejection		0	0
76	03/12/2008		FWDX	Date Forwarded to Examiner		0	0
75	01/31/2008	12/28/2007	A...	Response after Non-Final Action		34	71
74	01/31/2008		XT/G	Request for Extension of Time - Granted		0	0
73	11/16/2007		PA..	Change in Power of Attorney (May Include Associate POA)		0	0
72	11/13/2007		CAD	Correspondence Address Change		0	0
71	09/28/2007		MCTNF	Mail Non-Final Rejection		0	0
70	09/26/2007		CTNF	Non-Final Rejection		0	0
67	07/17/2007		FWDX	Date Forwarded to Examiner		0	0
65	07/17/2007		FWDX	Date Forwarded to Examiner		0	0
63	07/17/2007		ABN9	Disposal for a RCE / CPA / R129		0	0
60	07/10/2007		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received		0	0
66	07/10/2007		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE		0	0
62	07/10/2007		XT/G	Request for Extension of Time - Granted		0	0
61	07/10/2007		BRCE	Workflow - Request for RCE - Begin		0	0
60	03/07/2007	12/07/2006	N/AP	Notice of Appeal Filed		20	57
59	03/07/2007		XT/G	Request for Extension of Time - Granted		0	0
69	03/02/2007		IDSC	Information Disclosure Statement considered		0	0
58.7	03/02/2007		MB44	Information Disclosure Statement (IDS) Filed		0	0
58	03/02/2007		WIDS	Information Disclosure Statement (IDS) Filed		0	0
57	09/07/2006		MCTFR	Mail Final Rejection (PTOL - 326)		0	0
56	09/05/2006		CTFR	Final Rejection		0	0
55	06/23/2006		FWDX	Date Forwarded to Examiner		0	0
54	06/19/2006	03/16/2006	A...	Response after Non-Final Action		25	51
53	06/19/2006		XT/G	Request for Extension of Time - Granted		0	0
51	12/16/2005		MCTNF	Mail Non-Final Rejection		0	0
50	12/13/2005		CTNF	Non-Final Rejection		0	0
47	12/02/2005		FWDX	Date Forwarded to Examiner		0	0
45	12/02/2005		ABN9	Disposal for a RCE / CPA / R129		0	0
49	11/25/2005		IDSC	Information Disclosure Statement considered		0	0
48.7	11/25/2005	11/25/2005	MB44	Information Disclosure Statement (IDS) Filed		0	46
48	11/25/2005		WIDS	Information Disclosure Statement (IDS) Filed		0	0
44	11/25/2005		XT/G	Request for Extension of Time - Granted		0	0
43	11/25/2005		BRCE	Workflow - Request for RCE - Begin		0	0
42	08/31/2005		MCTAV	Mail Advisory Action (PTOL - 303)		0	0
41	08/30/2005		CTAV	Advisory Action (PTOL-303)		0	0
40	08/01/2005		FWDX	Date Forwarded to Examiner		0	0
39	07/27/2005		AP/A	Amendment/Argument after Notice of Appeal		0	0
38	07/27/2005	04/26/2005	N/AP	Notice of Appeal Filed		22	36
37	07/27/2005		XT/G	Request for Extension of Time - Granted		0	0
36	01/26/2005		MCTFR	Mail Final Rejection (PTOL - 326)		0	0
35	01/24/2005		CTFR	Final Rejection		0	0

34	01/24/2005		NNRAD	Mail Notice of Rescinded Abandonment		0
32	10/12/2004		FWDX	Date Forwarded to Examiner		0
29	10/12/2004		NNAB	Notice of Rescinded Abandonment in TCA		0
27	09/30/2004		MABN2	Mail Abandonment for Failure to Respond to Office Action		0
26	09/28/2004		ABN2	Aband. for Failure to Respond to O. A.		0
33.7	09/27/2004	09/27/2004	M844	Information Disclosure Statement (IDS) Filed		31
33	09/27/2004		WIDS	Information Disclosure Statement (IDS) Filed		0
31	09/27/2004	06/23/2004	A...	Response after Non-Final Action	26	25
30	09/27/2004		XT/G	Request for Extension of Time - Granted		0
28	09/27/2004		WAMD	Workflow Incoming amendment IFW		0
25	03/23/2004		MCTNF	Mail Non-Final Rejection		0
24	03/22/2004		CTNF	Non-Final Rejection		0
23	02/05/2004		FWDX	Date Forwarded to Examiner		0
22	01/22/2004		ELC	Response to Election / Restriction Filed		0
21	01/22/2004		XT/G	Request for Extension of Time - Granted		0
20	12/08/2003		RCAP	Reference capture on IDS		0
19.7	12/08/2003		M844	Information Disclosure Statement (IDS) Filed		0
19	12/08/2003		WIDS	Information Disclosure Statement (IDS) Filed		0
18	11/25/2003		CAD	Correspondence Address Change		0
17	11/25/2003		PA...	Change in Power of Attorney (May Include Associate POA)		0
16	11/19/2003	12/10/2002	HCTR5	Mail Restriction Requirement	235	1
15	11/17/2003		CTR5	Requirement for Restriction / Election		0
14	08/09/2003		TSSCOMP	IFW TSS Processing by Tech Center Complete		0
13	07/10/2003		DOCK	Case Docketed to Examiner in GAU		0
12	09/04/2002		NCL6	X-Pre-Legal Complete New Case		0
11	08/25/2002		L130	Receipt of all Acknowledgement Letters		0
10	08/16/2002		DOCK	Case Docketed to Examiner in GAU		0
9	06/27/2002		OIPE	Application Dispatched from OIPE		0
8	06/26/2002		COMP	Application is Now Complete		0
7	06/06/2002		ADDFLFE	Additional Application Filing Fees		0
6	06/06/2002		GATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applicant		0
5	03/07/2002		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned		0
4	02/22/2002		L196	Referred by LBR for Third-Level Security Review. Agency Referral Letter Generated		0
3	02/07/2002		SCAN	IFW Scan & PACR Auto Security Review		0
2	01/24/2002		SCAN	IFW Scan & PACR Auto Security Review		0
1	10/16/2001		IEXX	Initial Exam Team nn		0

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